

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON APPROPRIATIONS**

**Call to Order:** By **CHAIRMAN DAVE LEWIS**, on February 19, 2003 at 3:10 P.M., in Room 102 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Dave Lewis, Chairman (R)  
Rep. Rosalie (Rosie) Buzzas, Vice Chairman (D)  
Rep. Edith Clark, Vice Chairman (R)  
Rep. John Brueggeman (R)  
Rep. Tim Callahan (D)  
Rep. Stanley (Stan) Fisher (R)  
Rep. Eve Franklin (D)  
Rep. Dick Haines (R)  
Rep. Donald L. Hedges (R)  
Rep. Joey Jayne (D)  
Rep. Carol C. Juneau (D)  
Rep. Dave Kasten (R)  
Rep. Christine Kaufmann (D)  
Rep. Monica Lindeen (D)  
Rep. John Musgrove (D)  
Rep. Jeff Pattison (R)  
Rep. Rick Ripley (R)  
Rep. John Sinrud (R)  
Rep. John Witt (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Jon Moe, Legislative Branch  
Mary Lou Schmitz, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing & Date Posted: HB 593, HB 377, HB 624, 2/13/2003  
Executive Action: HB 481, HB 589, HB 74

**HEARING ON HB 377**

**Sponsor:** REP. CINDY YOUNKIN, HD 28, Bozeman

**Opening Statement by Sponsor:**

**REP. YOUNKIN** said this bill is an authorization of general obligation bonds to fund a hydrogen futures park at the University of Montana campus in Missoula. A hydrogen futures park is for hydrogen fuel cells. Exhibit 1 has a diagram of what these cells look like. Montana has all the natural resources necessary to produce hydrogen in a usable format. It is an expensive process right now but the only way it will ever become a more user-friendly product is through the research and technology that is growing in the country and can grow in Montana.

**EXHIBIT** (aph37a01)

**Proponents' Testimony:**

**Paul Williamson, University of Montana College of Technology,** explained Exhibit 2.

**EXHIBIT** (aph37a02)

**Tom Figarelle, Forward Montana,** said, "In the upcoming decades the United States will need to look for a new energy infrastructure to provide for increased transportation infrastructure. Hydrogen is the answer for our country. It can be produced with domesticated products that are in Montana; however, developing hydrogen will be difficult. The way our country works right now will have to be changed because the country is so dependent upon oil and gas at the moment. Right now the nation imports well over three-fourths of its oil. That is very problematic in the current nature of the world. This hydrogen has the possibility of releasing us from those pressures. Hydrogen also has the possibility of making Montana a leader in a new type of fuel that will energize the nation for years to come.

***{Tape: 1; Side: A; Approx. Time Counter: 0 - 13.9}***

**Earl Griffith, Self,** said there may be some alternatives for coal resources and this is one of them.

**Mack Cole, County Commissioner, Eastern Montana, Chairman of the Montanans for Responsible Energy Development,** stood in support of HB 377.

**Willie Duffield, Montana Association of Oil, Gas and Coal Counties** said this bill would be good for Montana.

**Opponents' Testimony:**

**Ken Nordtvedt, Bozeman**, read from Exhibit 3.

**EXHIBIT** (aph37a03)

*{Tape: 1; Side: A; Approx. Time Counter: 13.9 - 29.7}*

Letter from **Richard L. Stroup, Ph.D., Bozeman**, given to Secretary.

**EXHIBIT** (aph37a04)

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. HEDGES** asked, "If the bonds were sold and the parks were built, how far behind the power curve are we in hydrogen research?" **Dr. Williamson** said, "According to what he has seen in other states, we're probably five to ten years behind where we need to be at this time."

**REP. KAUFMANN** referred to Page 2, Lines 24 and 25 of the bill and asked, "Is this project exempt from the requirements in Title 18?" **REP. YOUNKIN** said that issue was brought to the attention of the Federal Relations, Energy, and Telecommunications (FRET) Committee when the bill was heard there. This bonding is structured the same as the aerospace bonding that was done last session for a project in Great Falls. The reason it was exempted out of that project, as well as this one, is because a lot of the contracts that would come to this project are NASA projects and NASA is hesitant to get into contracts where there are Title 18 requirements because it takes too long to go through the public process. **REP. KAUFMANN** said, "Since those are the provisions that protect the taxpayers, procurement procedures and construction, isn't that a concern?" **REP. YOUNKIN** said, "This project is one that is unlike other types of contracts where there are public procurement funds. There will not be any construction companies contracting in the same way that NASA does. However, that was a concern and she would rather take that provision out than kill the bill."

**REP. JAYNE** referred to Dr. Williamson's testimony that projects like this would require trained workers. "What type of training would be required for these projects and what facility would train these individuals?" **Dr. Williamson** said there are a number

of levels of training that will have to take place. Economic development is based on one- and two-year training programs to bolster the economics of any industry. They are working on a two-plus-two program through Community Colleges, Colleges of Technology and Tribal Colleges for a two-year training at those locations and then have the option for students to matriculate into either Montana Tech or Montana State University to finish up an engineering degree, if that is the student's desire.

In answer to another question from **REP. JAYNE, Dr. Williamson** said, "Professions would be in the renewal energy area. Right now there are no wind turbine technician training programs. The State of Montana has done a lot of work perfecting some of the technology in wind turbines but there is no training program in that area. When there are fuel cells in cars, homes and work places, technicians will be needed to install, maintain and operate them."

**REP. FISHER** asked, "Why hasn't private industry stepped up to this if it has such a great potential?" **Mr. Cole** said, "More private industry will be involved." **Dr. Williamson** said, "Concerning private industry, there are opportunities but there is a lack of impetus and leadership here in Montana. The bonds will not be used unless businesses are attracted. This would be a gateway to businesses coming to Montana and a signal to them that Montana is interested in doing hydrogen business."

**REP. BUZZAS** said she had a problem with the way this is financed in the bill. She feels it puts the General Fund and the taxpayers at risk. **REP. YOUNKIN** said the bonds are not going to be issued without a significant amount of review. She referred to Page 2, Line 20.

In response to a question from **REP. BUZZAS** concerning the University system, **Dr. Williamson** said, "The program has been discussed within the university system but because of the timeliness and the long process that the university system has to go through in order to evaluate opportunities like this, it was decided to go another way. There will be several millions of innovative dollars that will be out there. If they completely go through the process, much of that money will disappear, as it already has, to other states."

**{Tape: 1; Side: B; Approx. Time Counter: 0 - 18.4}**

**REP. HEDGES** said, "Concerning the development of hydrogen power, how long will it take to expend the \$30 million in bonds?" **Dr. Williamson** said he is hoping to do that in a couple or three

years so they could get the businesses here and get the hydrogen economy rolling.

**REP. KAUFMANN** asked Mr. Figarelle about his group, Forward Montana, and what they do. **Mr. Figarelle** said, "Forward Montana is an organization served by people who are upset that a college diploma is a one-way ticket out of Montana. They believe that economic and education opportunities are one and the same."

In response to another question from **REP. KAUFMANN, Dr. Williamson** said, "For things to fit together and for the model they are working with to be wholly functional, they have to have a trained workforce in concert with new and innovative businesses. They have made a sketch and some preliminary architectural drawings on the floor plans of what they need incorporated into the business and community part of the futures park environment."

**REP. KASTEN** referred to the potential development locations and the southeast sector in Exhibit 2. "How could that project be affiliated with Miles Community College?" **Dr. Williamson** said they have set-up the energy products network and tied together all of the colleges throughout the state. They would identify specific training opportunities that would be more applicable to that particular part of the state.

**CHAIRMAN LEWIS** referred to the projections on Page 3, Exhibit 2 and asked Dr. Williamson how he arrived at the \$160 million a year payroll. **Dr. Williamson** said he arrived at that figure with what was happening in Canada with their hydrogen experience and the payroll and salaries there. **CHAIRMAN LEWIS** said, "If everything transpires precisely as it has in Canada, then we would have this. If there were any differences, then we would not."

**CHAIRMAN LEWIS** said, "In order for these bonds to be issued there has to be a document signed by the Director of Office of Budget Program and Planning stating that the tax revenue to be received by the state from each project over the term of the bonds will be sufficient to pay the amount of principal and interest on the bonds issued for that project. What kind of proof will the budget director be given to sign that particular statement?" **Andy Poole, Department of Commerce**, said, "Depending upon the project, it becomes less difficult. In current statute today there is the Aerospace Bonding Statute which functions very similarly to what this bill would do for hydrogen. That was originally predicated on Montana competing with fifteen other states to get an interest in the project. That statute has evolved over time to be a vehicle to work with Aerospace

Transportation Development projects in Montana so there is a way that cost benefit analysis can be done."

**Closing by Sponsor:**

REP. YOUNKIN closed the Hearing on HB 377.

*{Tape: 1; Side: B; Approx. Time Counter: 18.4 - 29.4}*

**HEARING ON HB 593**

**Sponsor:** REP. VERONICA SMALL-EASTMAN, HD 6, Lodge Grass

**Opening Statement by Sponsor:**

REP. SMALL-EASTMAN said this bill would bring additional money from the coal severance taxes under the direct control of the coal-producing counties. HB 593 would revise the coal severance tax allocation to Big Horn, Rosebud, Musselshell and Richland Counties. The bill does not affect the revenue in the Coal Tax Trust Fund nor the money that would have gone into the fund. The amount of money each county would receive would be based on the amount of coal that these counties produce and can be used for general county operating expenses for their infrastructure. These counties must pay for the impact of coal development within their boundaries.

**EXHIBIT** (aph37a05)

*{Tape: 2; Side: A; Approx. Time Counter: 0 - 5.6}*

**Proponents' Testimony:**

John Pretty On Top, County Commissioner, Big Horn County said his county is in dire need for funding to address impacts from the coal mines.

**Opponents' Testimony:**

Tom Stelling, Resource Conservation Advisory Council, (RCAC) Member, Cascade County read from Exhibit 6.

**EXHIBIT** (aph37a06)

Sarah Carlson, Montana Association of Conservation Districts said Conservation Districts in Montana get their funding from two sources. About 40% comes from General Fund and 60% comes from the shared coal money. Eliminating 60% of the Conservation Districts funding would cause a number of very serious problems.

Buzz Mattelin, Roosevelt Conservation District.

Rick Knick, Employee, Sheridan Electric Co-op.

Scott Kulbeck, Montana Farm Bureau Federation.

Bob Stephens, Montana Grain Growers Association.

*{Tape: 2; Side: A; Approx. Time Counter: 5.6 - 30}*

Will Kissinger, Deputy Director of the Montana Department of Agriculture.

**EXHIBIT** (aph37a07)

John Semple, Montana Cattle Women, Montana Stock Growers, Montana Wool Growers and Montana Dairy Association.

Lois Fitzpatrick, Montana Library Association.

Mack Cole, County Commissioner, Treasure County.

Informational Testimony:

Ray Beck, Department of Natural Resources and Conservation said he would answer any questions from Committee members.

Questions from Committee Members and Responses:

**REP. KASTEN** said, "Out of the approximately \$6 million in 2001 grants, the area the bill addresses, there are about \$2 million in grants addressed in this bill. The Wyola school only applied for \$15,000 and did receive that amount in grants. Is the process fair?" **Mr. Pretty On Top** said they don't have the money to hire grant writers. **Mr. Cole** said he would like to go back prior to SB 183 when the monies were earmarked. There was more money in the Coal Board for local impacts and as there are more new mines being developed the impact funds will be needed. Some firm percentage figures are needed.

**REP. WITT** referred to the four counties listed in the bill; Big Horn, Musselshell, Richland, and Rosebud. He asked Mr. Cole what the mill levies are in those four counties. **Mr. Cole** said in Rosebud the mill levy is about 175 and his county, Treasure County, is about 400. He did not know the mill levy in the other counties. The mill levy is to provide services for people who live in that county. **REP. WITT** said there is a definite difference between the coal counties compared to the other

counties. There is a benefit they have that other counties don't. He asked for the mill levy information be provided to the committee.

**REP. MUSGROVE** asked Mr. Pretty on Top to respond to comments made by Mr. Cole. **Mr. Pretty on Top** said he is addressing the impacts, such as maintenance of secondary roads and will be happy to work with Mr. Cole.

**REP. RIPLEY** referred to the technical notes, Page 2 of the fiscal note, and asked the sponsor if there are amendments to address that. **REP. SMALL-EASTMAN** said there would be an amendment but not at this time.

**REP. FISHER** asked Mr. Pretty On Top if the county has ever considered putting a severance tax on the coal that goes out of his county, just like the state does. **Mr. Pretty On Top** said in the beginning there was a gross proceed tax to the counties, 12%. The state abolished that and turned it into a flat tax and then asked coal counties to share that money. State law does not allow the counties to put a severance tax on the coal.

**REP. KASTEN** said Big Horn County's mill levy is 51; Musselshell County is 139; Rosebud County is 175; Richland County is 109; McCone County, a noncoal county, is 152.

*{Tape: 2; Side: B; Approx. Time Counter: 0 - 23.8}*

**Closing by Sponsor:**

**REP. SMALL-EASTMAN** said, "The counties that do not produce coal need to develop their own resources to fund their own county programs or go to the state General Fund or the Treasure State Endowment Program for funding." She then closed the Hearing on HB 593.

*{Tape: 2; Side: B; Approx. Time Counter: 23.9 - 27.5}*

**HEARING ON HB 624**

**Sponsor:** **REP. ROSIE BUZZAS, HD 65, Missoula**

**Opening Statement by Sponsor:**

**REP. BUZZAS** said this bill establishes a budget stabilization account; provides a source of funding; authorizes how the account can be spent and provides for a cap on the fund and an effective date. This bill takes a slightly different approach from the



other budget stabilization or "rainy day" funds that the committee has heard previously; in that, it builds the fund as part of the budgeting process. Other proposals fund similar accounts by taking a percentage of the ending fund balance. The provisions of the bill are:

1) The budget stabilization account under this bill would require two-thirds vote for appropriation by each house of the legislature.

\_\_\_\_\_2) The source of funds. During the budgeting process of each biennium, the legislature shall designate an additional 1% of actual unrestricted revenue collections received in the completed fiscal year to be set aside in the budget stabilization account. After the department determines the General Fund ending fund balance for the biennium, the department shall allocate to the budget stabilization account 50% of any unanticipated fund balance that is greater than the general fund ending balance as projected by the legislature that is not otherwise encumbered or allocated by law for deposit in a different fund.

Basically, these are unanticipated funds that are not already designated so settlements for lawsuits would not come under this bill. It limits the size the account can grow and that would be 5% of the General Fund budget so it couldn't grow past \$110 million. Interest income from the budget stabilization account would be deposited back into the fund.

\_\_\_\_\_3) This section explains conditions for appropriation. Appropriations from the budget stabilization account could be made only to address or alleviate a projected General Fund budget deficit, similar to what this legislature has gone through this year, in the current biennium. A projected General Fund budget deficit may be determined by either the Office of Budget and Program Planning or the Legislative Fiscal Analyst by taking into consideration anticipated revenue, authorized levels of appropriation, anticipated supplemental appropriations, and anticipated reversions.

4) This section limits it to 5% of the General Fund for a biennium budget.

5) This section takes care of laws and Section 6 shows the effective date of July 1, 2003.

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Informational Testimony:** None

**CHAIRMAN LEWIS** said there are four "rainy day" fund bills and after this hearing he is going to assign a subcommittee to discuss those four bills and come up with a consensus and then the committee will act on those before transmittal. The subcommittee will consist of **REPS. BUZZAS, FRANKLIN, KASTEN,** and **SINRUD** with **REP. KASTEN** serving as chairman.

**Questions from Committee Members and Responses:** None

**Closing by Sponsor:**

**REP. BUZZAS** said this is a straight-forward concept. It sets up a savings account for the state to meet future budget deficits. She then closed the Hearing on HB 624.

**CHAIRMAN LEWIS** announced there would be a ten minute break.

**EXECUTIVE ACTION ON HB 481**

**Motion:** **REP. CLARK** moved that HB 481 DO PASS.

**Motion:** **REP. CLARK** moved that HB 481 BE AMENDED. HB048105.asb  
**EXHIBIT** (aph37a08)

*{Tape: 3; Side: A; Approx. Time Counter: 0 - 29}*

**Substitute Motion:** **REP. BRUEGGEMAN** moved a substitute motion for a conceptual amendment to HB 481 TO REMOVE THE LANGUAGE THAT THESE FUNDS WOULD NOT BE TAKEN FOR OTHER USES BUT ALL RETURNED TO THE HOSPITALS.

**Discussion:**

**REP. JAYNE** asked John Flink, Montana Hospital Association, how many funds were going to mental health services if this amendment went through without the substitute motion. **Mr. Flink** said, "As I recall the history of this, there was some discussion that there might be funds that could not be used because they would reach the upper Medicaid payment fund."

**Vote:** Substitute motion passed unanimously 19-0 on a voice vote.

**Motion/Vote:** **REP. CLARK** moved that HB 481 DO PASS AS AMENDED.  
Motion carried unanimously 19-0 on a voice vote.

*{Tape: 3; Side: B; Approx. Time Counter: 0 - 6.9}*

**EXECUTIVE ACTION ON HB 589**

**Motion:** REP. BUZZAS moved that HB 589 DO PASS.

**Substitute Motion/Vote:** REP. FISHER made a substitute motion that HB 589 BE TABLED. Substitute motion carried 10-9 on a roll call vote with REPS. BUZZAS, CALLAHAN, FRANKLIN, HEDGES, JAYNE, JUNEAU, KAUFMANN, LINDEEN and MUSGROVE voting no.

**EXECUTIVE ACTION ON HB 74**

**Motion:** REP. CLARK moved that HB 74 DO PASS.

**Motion:** REP. CLARK moved that HB 74 BE AMENDED. HB007403.ajm.  
**EXHIBIT**(aph37a09)

**Discussion:**

**CHAIRMAN LEWIS** asked Curt Nichols, Office of Budget and Program Planning, to explain the amendment. **Mr. Nichols** said this amendment is date specific that the transfer will be June 21 and allows the transfer to happen any day before that. This allows his department to work with the Board of Investments who manage the fund and pick the most opportune time to do that so it has less impact on the coal tax. It also makes the first transfer based on the Comprehensive Annual Finance Report for 2004 rather than 2005. **CHAIRMAN LEWIS** said basically they can transfer whatever amount is necessary up to \$93 million in order to maintain a \$50 million ending fund balance at the end of 2004.

**Vote:** Motion carried 11-8 with REPS. BUZZAS, CALLAHAN, FRANKLIN, JAYNE, JUNEAU, KAUFMANN, LINDEEN and MUSGROVE voting no on a roll call vote.

**Motion:** REP. CLARK moved that HB 74 BE AMENDED. HB007402.ajm  
**EXHIBIT**(aph37a10)

**Discussion:** **CHAIRMAN LEWIS** said, "Basically what this does is allocate the money to be transferred, to make up the difference between the Governor's Executive Budget and where the subcommittees are at the present time. The Governor's proposed budget assumed the \$93 million transfer from the Coal Trust Fund. The purpose of this amendment would be to make HB 74 accomplish what the Governor proposed, which was to fill in the difference where the subcommittees are now and what the Governor's budget was as presented.

*{Tape: 3; Side: B; Approx. Time Counter: 6.9 - 29}*

Vote: Motion carried 11-8 with REPS. BUZZAS, CALLAHAN, FRANKLIN, JAYNE, JUNEAU, KAUFMANN, LINDEEN and MUSGROVE voting no on a roll call vote.

Motion: REP. CLARK moved that HB 74 DO PASS AS AMENDED.

Discussion:

In response to a question from REP. BUZZAS, Terry Johnson, Legislative Fiscal Division, said, "In terms of the impact on state General Fund, basically, what it would amount to is lost interest earnings. If \$93 million is taken out of the principle of the Severance Tax Trust, the loss in interest earnings that would be generated to the General Fund is about \$6.7 or \$6.8 million per year."

Motion/Vote: REP. LINDEEN moved that HB 74 BE TABLED. Motion failed 9-10 with REPS. BUZZAS, CALLAHAN, FRANKLIN, JAYNE, JUNEAU, KASTEN, KAUFMANN, LINDEEN and MUSGROVE voting yes on a roll call vote.

Vote: Do Pass as Amended motion carried 10-9 with REPS. BUZZAS, CALLAHAN, FRANKLIN, JAYNE, JUNEAU, KASTEN, KAUFMANN, LINDEEN and MUSGROVE voting no on a roll call vote.

**ADJOURNMENT**

Adjournment: 6:30 P.M.

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REP. DAVE LEWIS, Chairman

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MARY LOU SCHMITZ, Secretary

DL/MS

**EXHIBIT** (aph37aad)